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May 24, 2012

VIA ECF

Hon. Judge Fredric Block, U.S.D.J.
United States District Court, E.D.N.Y.
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Hidalgo et al. v. New York State Catholic Health Plan, et al.
Civil Action No.: 11 Civ. 4673 (FB)
F&S File No.: 66-245
Assigned Attorney: Brian Schaffer

Dear Judge Block:

We represent the Plaintiffs in the above-referenced action. We write this letter jointly with Defendants to provide Your Honor with the proposed Notice of Pendency that will be mailed to potential opt-in plaintiffs. If Your Honor approves of the attached notice, Plaintiffs anticipate that the notice will be mailed within the next two weeks.

Thank you for your time and attention.

Respectfully submitted,


Brian Schaffer

Encl.

Cc: Defense counsel (via ECF)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

**KARLA HIDALGO, PEDRO SERRANO, and
CLAUDIA HERNANDEZ, on behalf of themselves
and all others similarly situated,**

Plaintiffs,
-against-

11 Civ. 4673 (FB)

**NEW YORK STATE CATHOLIC HEALTH PLAN,
INC. d/b/a FIDELIS CARE NEW YORK, MARK
LANE, and PATRICK FRAWLEY,**

Defendants.

COURT-AUTHORIZED NOTICE

**If you have been employed by FIDELIS CARE NEW YORK as a Marketing Representative
in Nassau and Suffolk Counties, or on specific marketing teams in Manhattan and Queens
between January 1, 2009 and the present, please read this notice.**

*This is a court-authorized notice.
This is not a solicitation from a lawyer.*

The purpose of this Notice is to advise you of the lawsuit that has been filed against NEW YORK STATE CATHOLIC HEALTH PLAN, INC., d/b/a FIDELIS CARE NEW YORK, MARK LANE, and REV. PATRICK FRAWLEY, and to advise you of your legal rights in connection with that suit.

- A lawsuit has been filed against New York State Catholic Health Plan, Inc., d/b/a Fidelis Care New York ("Fidelis"), Mark Lane, and Rev. Patrick Frawley (collectively, the "Defendants"). The lawsuit claims that the Defendants failed to pay Marketing Representatives proper overtime pay and gap-time wages (for hours 37.5 to 40) when they worked over 40 hours per week.
- Defendants deny any wrongdoing and/or liability to Plaintiffs or any other current or former employee of Fidelis who may allege that he or she was not paid properly, and further deny that any employee was not paid properly for all hours worked.
- The Court has authorized the parties to send out this notice of the lawsuit. The Court has not decided who is right and who is wrong. Your legal rights may be affected, and you have a choice to make now.

- Your options are explained in this notice. To ask to be included in the lawsuit, you must act before _____ (insert 65 days from date notice is sent out) .

This notice contains information that affects your rights. Please read it carefully.

1. Why did I get this notice?

You are getting this notice because Fidelis' records show that you work or worked at Fidelis as a Marketing Representative in Nassau and Suffolk County, or on the specific marketing teams in Manhattan and Queens identified by the parties, since January 1, 2009.

2. What is this lawsuit about?

This lawsuit is about whether Fidelis properly paid Marketing Representatives in accordance with the federal and New York State labor laws and whether certain Marketing Representatives were paid premium overtime pay – at a rate 1.5 times their regular hourly rate – for all hours worked in excess of 40 per workweek, and hourly wages for hours 37.5 to 40 when certain Marketing Representatives worked over 40 hours per week

3. What is a collective action and who is involved?

The Plaintiffs have brought this lawsuit on behalf of themselves and other Marketing Representatives whom they claim are “similarly situated” to them. Eligible Marketing Representatives who decide to participate in the case will become part of a “Collective,” otherwise known as “Collective Action Members.” All of the Collective Action Members are called the “Plaintiffs.” Fidelis, Mark Lane and Rev. Patrick Frawley are called the “Defendants.” The Court resolves the issues for everyone who decides to join the case. Anyone who decides not to join the case will not be part of the lawsuit and will not be affected by its outcome.

4. What damages is the lawsuit seeking?

The lawsuit is seeking to recover for the Collective alleged unpaid overtime and gap wages and other statutory damages. The lawsuit is also seeking recovery of costs, liquidated damages and attorneys’ fees.

5. What happens if I join the lawsuit?

If you join this lawsuit, you will be bound by any ruling, settlement, or judgment, whether favorable or unfavorable. You will also share in any proceeds from any settlement or judgment favorable to the Collective, if any. By joining this lawsuit, you designate the named Plaintiffs as your representatives, and to the fullest extent possible, you designate the named Plaintiffs to make decisions on your behalf concerning the case, the method and manner of conducting the case, the

approval of settlements, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into will be binding on you if you join the lawsuit.

6. Can Fidelis and/or my current employer retaliate or fire me if I join the lawsuit?

No. It is a violation of Federal law for the Defendants or any other employer to fire, discipline, or in any manner discriminate or retaliate against you for taking part in this case.

7. How do I ask the Court to include me in the case?

Enclosed is a form called "Plaintiff Consent Form." **If you wish to participate in the portion of this lawsuit that seeks payment for unpaid overtime compensation and gap time wages under the federal law, you must sign and return the enclosed Plaintiff Consent Form.** An addressed and postage paid envelope is enclosed for your convenience. Should the enclosed envelope be lost or misplaced, the Plaintiff Consent Form must be sent to the following address:

Fitapelli & Schaffer, LLP
475 Park Avenue South, 12th Floor
New York, New York 10016

The signed Plaintiff Consent Form must be postmarked by **(65 days) from mailing of this Notice.** **If your signed Plaintiff Consent Form is not postmarked by (65 days) from mailing of this Notice, you may not be able to participate in the federal law portion of this lawsuit or share in a monetary recovery.**

8. Do I have a lawyer in this case?

If you choose to join this lawsuit you will be represented by Fitapelli & Schaffer, LLP, 475 Park Avenue South, 12th Floor, New York, New York 10016, (212) 300-0375, www.fslawfirm.com.

9. Should I get my own lawyer?

You do not need to hire your own lawyer because Plaintiffs' Counsel will be working on your behalf. However, you are allowed to hire your own lawyer at your own expense.

10. How will the lawyers be paid?

The named Plaintiffs have entered into a contingency fee agreement with Plaintiffs' counsel. Under this agreement, you are not responsible for paying any of the attorneys' fees or costs expended in the lawsuit. Plaintiffs' counsel will be paid as follows: if there is a settlement, Plaintiffs' counsel may ask the Court to award it up to 1/3 of any recovery obtained or may attempt to negotiate payment of attorneys' fees separate from and in addition to the Collective's recovery. If there is no recovery, you pay nothing.

11. What happens if I do nothing at all?

If you choose not to join this lawsuit, you will not be eligible to participate in the federal portion of this lawsuit, and will not be eligible to receive any benefits in the event that a settlement of judgment is obtained. You will be free, however, to separately file and pursue your own claims against any of the Defendants.

12. This notice has been authorized by the Court.

This notice and its contents have been authorized by District Court Judge Frederic Block of the U.S. District Court, Eastern District of New York. The Court has not yet ruled on whether Plaintiffs' claims or Defendants' defenses have any merit.

PLAINTIFF CONSENT FORM

1. I was employed by Fidelis as a Marketing Representative in Nassau or Suffolk County or on specific marketing teams in Manhattan and Queens identified by the parties, and I allege that I was not paid for all hours that I worked during the three (3) year period prior to the date this Consent is filed with the Court.
2. I consent to be a party plaintiff in the above-captioned lawsuit against Fidelis in order to seek redress for alleged violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).
3. By signing and returning this consent form, I hereby designate representative Plaintiffs Karla Hidalgo, Pedro Serrano, and Claudia Hernandez, and Plaintiffs' attorneys Fitapelli & Schaffer, LLP (the "Firm"), to represent me in such lawsuit and to make decisions on my behalf concerning the litigation, including any settlement, and all other matters pertaining to this lawsuit. I agree to be bound by any adjudication of this action by a Court, whether it is favorable or unfavorable and to be bound by any settlement entered into on my behalf by the representative Plaintiffs and Plaintiffs' attorneys. I understand that reasonable costs expended by Plaintiffs' Attorneys on my behalf will be deducted from any settlement or judgment amount on a pro rata basis among all other plaintiffs.

Name (printed)

Signature

Date

Best Telephone Numbers

E-Mail Address

Mail, E-mail or Fax to:

Fitapelli & Schaffer, LLP
475 Park Avenue South, 12th Floor
New York, New York 10016
Fax: (212) 481-1333
E-mail: Info@fslawfirm.com